IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 25TH JUNE 2007 / 4TH ASHADHA 1929

Crl.MC.No. 1898 of 2007()

CP.23/2005 of JUDL.MAGISTRATE OF FIRST CLASS, ETTUMANUR

.....

PETITIONER: 7TH ACCUSED:

MANJUR CHANDRAN, AGED 30 YEARS,
S/O. CHANDRASEKHARAN, KARTHIKA HOUSE,
AYAMKUDY KARA, MUTTICHIRA VILLAGE, KOTTAYAM DIST.

BY ADV. SRI.PEEYUS A.KOTTAM

RESPONDENTS: COMPLAINANT:

---

1. STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

2. CIRCLE INSPECTOR OF POLICE,
ETTUMANOOR POLICE STATION (INVESTIGATING OFFICER
IN CRIME NO.110/02 OF ETTUMANOOR POLICE STATION).

BY PUBLIC PROSECUTOR SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 25/06/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

Crl.M.C.No.1898 of 2007

Dated this the 25th day of June, 2007

ORDER

Petitioner is the 7th accused. He faces indictment for offences punishable, inter alia, under Section 302 read with 120 B I.P.C. All the co-accused have faced trial. They have already been found not guilty and acquitted.

2. According to the petitioner, he was unaware of the proceedings pending against him and it is in these circumstances, he- a student could not earlier appear before the learned Magistrate. The petitioner has a further contention that in as much as all the co-accused have been found not guilty and acquitted, the charge under Section 120 B I.P.C cannot lie against him at all. He, in these circumstances, prays that the powers under Section 482 Cr.P.C may be invoked and the proceedings against him may be quashed.

3. I am called upon to invoke the extraordinary inherent jurisdiction under Section 482 Cr.P.C. Such jurisdiction is not to be invoked as a matter of course. It is to be invoked sparingly and in exceptional cases that too only in aid of justice. I am not satisfied that such directions ought to be issued in favour of the petitioner, who has been absconding all the while and did not co-operate with the progress of the case. However, I take note of the submissions made by the learned counsel for the petitioner. I am satisfied that main the relief of quashing of proceedings cannot be granted in favour of the

petitioner. In the peculiar facts and circumstances of this case, directions under Section 438 Cr.P.C can be issued in favour of the petitioner.

4. In the result, this Crl.M.C is dismissed. The following directions are issued under Section 438 Cr.P.C.

i) The petitioner shall appear before the learned Magistrate having jurisdiction at 11 a.m on 02.07.2007;

ii) He shall be released on regular bail on condition that he executes a bond for Rs.50,000/- (Rupees Fifty thousand only) with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate;

iii) If the petitioner does not appear before the learned Magistrate as directed in clause (i), directions issued above shall thereafter stand revoked and the police shall be at liberty to arrest the petitioner and deal with him in accordance with law as if those directions were not issued at all;

iv) If the petitioner were arrested prior to his surrender on 02.07.07 as directed in clause (1) above, he shall be released on bail on his executing a bond for Rs.50,000/- (Rupees Twenty Five thousand only) without any sureties undertaking to appear before the learned Magistrate on 02.07.07.

5. I may hasten to observe that the dismissal of this Crl.M.C will not in any way fetter the rights of the petitioner to raise his plea for discharge at the stage of Section 227/228 Cr.P.C and the learned

Sessions Judge must consider such plea and pass appropriate orders on merits.

(R.BASANT, JUDGE)

rtr/